Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

~~76-980~~

October Term, 1976
No. . . . . .

IN THE MATTER OF
JOHN W. KRAFT,
Petitioner

PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE STATE OF IDAHO

JOHN W. KRAFT
In Propria Persona

P.O. Box 4025
Pioneer Square Station
Seattle, WA 98104

CRAFTSMAN PRESS — WORD PROCESSING, SEATTLE

SUBJECT INDEX

Page

Opinion Below 1

Jurisdiction 2

Questions Presented 2

Authorities Involved 5

1. Rules for Discipline of The Idaho Supreme Court and Commissioners of the Idaho State Bar - Rule 152 5

2. Rules of Discipline of The Idaho Supreme Court and Commissioners of the Idaho State Bar - Rule 163 5

3. Rules of Discipline of The Idaho Supreme Court and Commissioners of the Idaho State Bar - Rule 167 7

4. Rules of Discipline of the Idaho Supreme Court and Commissioners of the Idaho State Bar - Rule 173 8

5. United States Constitution, Amendment 14 8

6. Title 35 United States Code Section 32 8

7. Title 35 United States Code Section 33 9

Concise Statement of Case 9

Reasons Why Appeal Should be Granted 21

Conclusion 27

Appendix A-1

TABLES OF AUTHORITY

Page

Constitutional Provisions

U.S. Const., amend. XIV 8

Statutes

28 USC § 1257(3) 2

35 USC § 31 2

35 USC § 32 8-9

35 USC § 33 9

Other Authorities

Disciplinary Rule 152 5

Disciplinary Rule 163 5-7

Disciplinary Rule 167 7

Disciplinary Rule 173 8

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1976
No. . . . . .

IN THE MATTER OF
JOHN W. KRAFT,
Petitioner

PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE STATE OF IDAHO

TO: The Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States

JOHN W. KRAFT, petitioner herein, prays that a writ of certiorari issue to review the judgment of the Supreme Court of the State of Idaho entered in the above entitled case on September 27, 1976.

OPINION BELOW

There was no opinion of the Supreme Court of the State of Idaho or any finding of fact by the Commissioners of the Idaho State Bar and the case is unreported. The order of the Supreme Court of the State is printed in the Appendix A hereto, infra, page A-1. The journal entry of Judgment of the Supreme Court of the State of Idaho is printed in Appendix A hereto, infra, page A-1.

JURISDICTION

The judgment of the Supreme Court of the State of Idaho was entered on September 27, 1976. A timely position for reconsideration was denied on October 29, 1976 (Appendix A, infra, page A-1). The jurisdiction of the court is invoked under 28 USC § 1257(3) wherein the validity of 35 USC § 31, et seq., is assailed and certain laws of the State of Idaho are repugnant to the statutes and constitution of the United States and distinct and timely insistance thereof was made before the Supreme Court of the State of Idaho.

QUESTIONS PRESENTED

Questions presented by this case are as follows:

a. Denial of equal protection under the law to attorneys licensed to practice general law in the State of Idaho by a rule of the Supreme Court and the Board of Commissioners of the Idaho State Bar granting absolute immunity from civil actions to complainants against attorneys, which rule is penal in nature by requiring attorneys to pay

extreme costs for defending even the most spurious claims without possibility of recovering therefor by which attorneys may be economically "complained out of business," and, further, that such rule discriminates against attorneys as a class of persons.

b. Denial of due process of law by acts of officers of the Idaho State Bar not integral with the performance of their duties before the filing of complaints or citations and during all stages of proceedings, such acts, however, being under the color of their respective offices, but independent and apart from proceedings, but materially affecting the same.

c. Denial of due process of law under a rule of the Supreme Court and the Board of Commissioners of the Idaho State Bar expressly permitting disregard of informalities, omissions, technicalities, or errors in instituting disciplinary proceedings, or in pleadings, proceedings, rulings, orders or evidence, which rule is so vague as to deny definition.

d. Denial of due process of law by inducing an accused attorney to stipulate and agree to terms and conditions of settlement clearly and expressly agreed to be contradictory to a rule of the Supreme Court and the Board of Commissioners of the Idaho State Bar under the guise of authority purportedly permitting disregard of omissions, technicalities, or errors, such stipulation and agreements acknowledging denial of all charges, permitting the filing of briefs, documents and memoranda in support of such denial, withholding decision on merits, terminating proceedings, and the express agreement that such stipulation and agreements did not constitute an admission of guilt of a plea of nolo contendere.

e. Denial of due process of law by prejudicing the rights of an accused attorney by failing to file all documents, records, exhibits, affidavits and memoranda agreed to be necessary to form a complete record of the case for review by the Idaho Supreme Court.

f. An attempt to regulate the practice of patent law in the State of Idaho by publication to

prospective clients that accused attorney is not authorized to practice patent law by the Idaho State Bar and the order of the Supreme Court of the State of Idaho purporting to limit such privilege to so practice being solely within the scope of authority of the United States Patent Office.

AUTHORITIES INVOLVED

1. Rules for Discipline of The Idaho Supreme Court and Commissioners of the Idaho State Bar - Rule 152

> All disciplinary proceedings shall be in accordance with the rules and proceedings provided for by the rules of discipline and all proceedings shall be confidential unless released by order of the Supreme Court of the State of Idaho and shall not be a matter of public record. Any individual who submits a complaint against an attorney to an authorized disciplinary agency, shall have absolute immunity from any civil suit predicated on the filing of the complaint or any disciplinary proceeding thereon.

2. Rules of Discipline of The Idaho Supreme Court and Commissioners of the Idaho State Bar - Rule 163

> If motion to a complaint or amended complaint be overruled, the accused shall answer within ten days, or such further time as may be granted by the Chairman. The answer must specifically admit, deny or explain the allegation in the complaint. After answer the Chairman of the Disciplinary Committee shall fix a time and

place for hearing and notify by mail all members of the Committee, the Prosecuting Committee and the complainant's attorney, if any, and the accused or his attorney, of the time and place thereof. At any time after the filing and service of the complaint upon the accused, the Disciplinary Committee may, in its discretion, accept from the accused his written motion for a voluntary suspension of the accused's right to practice law or disbarment. Such written motion shall specify that the accused agrees he cannot successfully resist the complaint and shall recite his motion is freely and voluntarily rendered; he is not being subjected to coercion or duress, he is fully aware of the implications of submitting his motion; such written motion shall further state he is aware that there is a presently pending investigation into allegations that he has been guilty of misconduct, the nature of which shall be specifically set forth. The written motion shall acknowledge that the material facts upon which the complaint is predicated are true and he submits his motion because he knows that if charges were predicated on the misconduct under investigation he could not successfully defend against them. The written motion shall specify clearly and succinctly the suggested terms and conditions of his voluntary suspension or disbarment; a copy of said motion shall be served upon the Prosecuting Committee who shall, within 10 days file written response thereto with the Disciplinary Committee. The Disciplinary Committee may accept the terms and conditions of the motion for voluntary suspension or disbarment in which event the taking of evidence may be dispensed with or the Committee may set the motion for hearing and hear such evidence and arguments as may appear to be proper before

arriving at a decision on such motion; in either event the decision of the committee shall then comply with the provisions of Rule 167.

An order entered upon a motion for voluntary suspension or disbarment shall have like force and effect as though entered after full hearing upon the merits of the complaint and reinstatement shall be made strictly in accordance with Rule 171.

3. Rules of Discipline of The Idaho Supreme Court and Commissioners of the Idaho State Bar - Rule 167

After the hearing is completed, the Disciplinary Committee shall make written findings of fact, conclusions of law and such recommendations as in its judgement [sic] are justified; if hearing is had before a Committee the Chairman shall forward such findings, conclusions and recommendations, together with all papers filed in connection with said matter and all testimony taken thereat and exhibits offered, to the Secretary of the Board, and the Board shall review said record and shall make and enter such recommendatory order, including imposition of fines and costs, as in its opinion should be made. A copy of the Board's recommendatory order, other than one of dismissal, accompanied by the original certified record and a memorandum of the items of costs and disbursements in the proceeding actually and necessarily obligated itself to pay, certified by the Secretary to be true and just, shall be filed with the Clerk of the Supreme Court, and a copy of the order, including the memorandum of costs, certified as aforesaid, shall be served by the Secretary on the accused, or his attorney, in the same manner as is provided for service of citation.

4. Rules of Discipline of the Idaho Supreme Court and Commissioners of the Idaho State Bar - Rule 173

> Informality, omissions, technicalities, of errors, in instituting or conducting disciplinary proceedings, or in pleadings, proceedings, rulings, orders, or evidence, shall be at all stages of the proceedings disregarded unless it clearly appear that substantial rights of accused were thereby prejudiced. If the accused has been fairly apprised by the pleadings of his actions or omissions alleged to constitute misconduct, and has been given fair opportunity to defend any evidence tending to show misconduct thereby may be admitted and any misconduct, whether or not specifically named or designated, which appears from the evidence may be found and adjudged.

5. United States Constitution, Amendment 14

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any laws which abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. . . .

6. Title 35 United States Code Section 32

Suspension of Exclusion from Practice.

> The Commissioner may, after notice and opportunity for a hearing, suspend or

> exclude, either generally or in any particular case, from further practice before the Patent Office, any person, agent, or attorney shown to be incompetent or disreputable, or guilty of gross misconduct or who does not comply with the regulations established under section 31 of this title, or who shall, by word, circular, letter, or advertising, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant, or other person having immediate or prospective business before the Office. The reasons for any such suspension or exclusion shall be duly recorded. The United States District Court for the District of Columbia under such conditions and upon such proceedings as it by its rules determines, may review the action of the Commissioner upon the petition of the person so refused recognition or so suspended or excluded.

7. Title 35 United States Code Section 33

Unauthorized Representation As Practitioner

> Whoever, not being recognized to practice before the Patent Office, holds himself out or permits himself to be held out as so recognized, or as being qualified to prepare or prosecute applications for patent, shall be fined not more than $1,000 for each offense.

CONCISE STATEMENT OF CASE

The ultimate statement of facts in the complaints are extremely misleading. The complex transactions took place over a 3-year period of time. Alleged misconduct of the accused attorney

purportedly flows from wrongful sales of stock by the first complainant, frustrated applications under Regulation A to the Securities and Exchange Commission, later wrongful sales of stock by first complainants, a trust agreement between the first and a second complainant, an alleged attempted acquisition of the property of a third complainant, the wrongful filling up of documents allegedly signed in blank by the third complainant and a purported forgery.

The first complainant commenced business in 1971 for providing combination storage/shopping facilities to recreational vehicle owners and other collateral services including a cash/credit card, insurance, publications, maintenance and repair services. It was contemplated that facilities would be constructed and operated by joint venture licensees. The principal officer of one of the largest construction companies was anticipated to participate by promoting, developing, constructing and financing facilities in exchange for the transfer of shares of stock held individually by promoters. This plan was not consummated

and employees, friends and relatives were given and conveyed individual shares of the promoters out of what at first appeared to be a security transaction involving the transfer of shares 5 or 6 months following cash advances and/or services to the promoters.

Thereafter, promoters obtained contingent leases and letters of intent to lease, and an option to land from major business firms including Standard Oil, 7-11 Stores, B-Mack and others.

Ten months later first claimants decided to change from a low capital requirement participating program, to a high capital requirement full ownership organization. Complainant prepared a stock sales booklet, including a notice that it was for the eyes of only the most discerning investor and together with manuals, market studies and surveys, commenced selling shares of stock. This sales campaign lasted 2 weeks when a licensed broker informed complainants of violations of law and advised they seek legal counsel. Complainants met with accused attorney, stated their undertaking, and stated that they had pursued that

course upon accused attorney's general advice that they could lawfully encumber, hypothecate or convey shares to any willing buyer at any agreed price, and could split shares into any number of predetermined increments. Appropriate procedural undertakings had not been pursued to accomplish complainants' scheme. In complainants' presence, accused attorney called the Regional Securities and Exchange Office to determine how to remedy the wrong committed. Accordingly, accused attorney prepared an application under Regulation A incorporating verbatim information from complainants' manuals and records, and personally delivered the same, together with the filing fee therefor to the Securities and Exchange Regional Office. After a conference, all documents and the fee were returned to accused attorney with the requirement to delete surveys and market studies and to insert dilution ratios. A second application was forthwith prepared and similarly submitted and returned for a determination of regional jurisdiction by the Securities and Exchange Commission in Washington, D.C. In

the meantime the business purpose and the place of the use of proceeds was changed by complainants. A third application was prepared and similarly submitted and returned upon the basis of a further jurisdictional question. A fourth application was prepared, State of Idaho approval as to form obtained and the same was concurrently submitted to the Regional Office and to Washington, D.C. At no time did personnel of the Securities and Exchange Office record the submittals as required by administrative rules. Upon these facts complainants allege that accused attorney erred and mislead them by using the word "filed" rather than such terms as "lodged," "submitted," or the like.

First complainants then represented to accused attorney that they had entered into a business plan with Winnebago Industries whereby security transactions and applications would be handled by Winnebago counsel. Shortly thereafter, first complainants advised accused attorney that Winnebago had breached its agreement with first complainants. Accused attorney found that no

agreement existed between Winnebago Industries and first complainants. First complainants had been mislead by a nephew of the controller of Winnebago Industries as to the transaction, albeit that the Board of Directors did have limited knowledge of the purported transactions. First complainants charge accused attorney with malfeasance in negotiating the contract described.

A second complainant entered into agreements unknown to accused attorney in which second complainant advanced a large sum of money to first complainant. Within 60 days thereafter second complainant entered into a trust sales agreement with first complainant whereby if all conditions precedent be performed, second complainant would pay first complainant $200,000.00 and assume all current operating expenses and pay a consulting fee of $1,000.00 per month plus expenses in exchange for the shares owned by first complainant. During negotiations and at the time of executing the agreement first complainant represented that all of its past obligations were approximately $147,000.00 of which $40,000.00 were critical

respecting continued operations of the business; that first complainants had an option to certain property at Fremont, California; certain contingent leases; letters of intent to lease; certain exclusive license agreements; escrow agreements to construct and operate facilities; a source of financing in Florida if all its bills were paid; a specified operating budget; and it could complete and put into operation a facility within 180 days. Second complainant represented that he and certain associates, including an air pollution expert in Auburn, Washington, and an officer of Georgia-Pacific had adequate funds available to ensure successful operation under the terms of the trust sales agreement. Within 10 days after execution of the agreement, first complainant advised second complainant that first complainant had lost its option to Fremont land and its contingent lease to Standard Oil and could substitute other sites and leases as required. Second complainant at the same time advised that he had abandoned the Auburn and Georgia-Pacific associates in favor of others. Second complainant

had to that time paid to accused attorney for payment to past and current creditors as well as for prepaid costs of accused attorney, the sum of approximate $46,000, of which $35,000 was a check formally dishonored 47 days after presentment and of which accused attorney was informally advised 22 days after presentment, at which time second complainant made arrangements for restitution to officers of accused attorney's bank, which arrangements were never met. Agents for second complainant and second complainant reported tranfers to accused attorney's account. Accused attorney hired a firm of accountants to investigate and find the purported deposits, most of which were later proven not made or to have been diverted by second complainant. Accused attorney executed trustee's notes to certain of second complainants' associates, made personal advances and borrowings to accomplish timely payments under the trust sales agreement and to insure against purported lost deposits.

Within 180 days of the execution of the agreement accused attorney had clear evidence

that first complainant had substantially more than the specified debt; that first complainant had continuously engaged in security transactions for more than 1 year after attempts to file an application under REgulation A and second complainant was engaging in unlawful security transactions identical in form undertaken by first complainant.

First and second complainants allege that accused attorney was not authorized to make payments for advancements of accused attorney for travel, lodging, extra secretarial, rents and costs as well as for current obligations incurred by first and second complainants although authorized in writing.

The amended complaint herein includes allegations accusing attorney of wrongfully filling up a form purportedly signed in blank, an attempted conversion by accused attorney and alleged forgery. Affidavits of the Notary Public acknowledging the signature and of the purchaser and the purchaser's attorney negativing the allegations submitted to the Committee on Discipline

and the report of the handwriting expert stating that the third complainant had not, in fact, signed the documents, but that he could not establish that accused attorney had are documents not forming a part of the record before the Supreme Court of the State of Idaho.

Contrary to the practice and custom accused attorney was not notified of a complaint and citation prior to the filing of the same, and accused attorney was not permitted to make any statement or present evidence with respect thereto. Prior to the time of the complaint and citation, the investigator, later the prosecutor, advised another attorney to advise his client not to pay an invoice due and owing the later accused attorney since the later accused attorney was going to be disbarred. Three days after the filing of the complaint the deposition of the first complainant was taken and that complainant departed for Algeria not to be again available until a time for hearing on the merits nearly a year later, which time was set immediately prior to trial. Insufficient time was allowed to

accused and his attorney to prepare in either instance. The general public was advised of each allegation in detail prior to the filing of complaints and citations and the wife of one of the Commissioners made known details thereof in a public place. The Executive Secretary of the Idaho State Bar caused publication of matter prior to occurrences. One of the prosecutors reported testimony and facts of evidence in a public bar of confidential materials. Attorney for accused attorney was threatened if accused attorney failed to assign specified sums. Informal and improper agreements were made from time to time, all of which appear in detail in petitioner's brief.

The Commissioners of the Idaho State Bar entered into agreements with the accused attorney whereby accused attorney agreed, inter alia, to voluntarily suspend only the practice of general law in Idaho, and the Commissioners agreed that accused attorney denied all charges, that the Commissioners withhold judgment on merits, that the agreement did not constitute a plea of nolo contendere, that the record, together with all

documents, a brief in support of accused attorney's denial, including documents and evidentiary material, be submitted to the Supreme Court of the State of Idaho for determination. The Supreme Court of the State of Idaho issued its first order before the agreed brief of accused attorney was submitted and after it had granted to accused attorney time within which to file the agreed brief, documents and evidence in support of his denial. The Commissioners failed to submit to the Supreme Court of the State of Idaho, inter alia, affidavits and other memoranda in accordance with its rules. The Commissioners failed to deduct expenses allowed to accused attorney for cross examination of witnesses. The Supreme Court of the State of Idaho granted a petition for reconsideration and thereafter again failed to grant a hearing on the merits of the case. The Supreme Court of the State of Idaho issued its second order without having before it all documents as required by the rules; this order purportedly adopting the agreement between the accused attorney and the Commissioners

but materially departing therefrom by the terms of the order. The Supreme Court of the State of Idaho denied a second petition for reconsideration.

The complaint and citation charged accused attorney with alleged misconduct occurring as long as 8 years prior to the complaint and citation.

REASONS WHY APPEAL SHOULD BE GRANTED

The policy of the United States Supreme Court to avoid interference with the rights of states to regulate the practice of law is outweighed in this case by the denial by state regulations of equal protection under the law to attorneys as a class, denial of due process of law by arbitrary abrogation of its own rules, coupled with an attempt by a state to regulate practice before the United States Patent Office solely within the jurisdiction of the United States, and denial of limitations of actions with respect to time within which an action may be brought against attorneys as a class, even though

statutes of limitation of the state are tolled with respect to civil and criminal actions. The combination of violations of four such fundamental rules of law have never before been submitted to this court.

This case puts before this Court the issue of whether or not public policy demands regulations which deny attorneys, as a class, a right of recovery from spurious and malicious complainants by granting to complainants absolute immunity from civil action. Such regulation encourages flagrant abuse of power by state regulatory agencies and encourages attorneys to accede to colored demands of clients under threat of extreme, unreasonable burden of costs of defense without possibility of recovery. The consideration of conduct by an attorney under such regulations then becomes one of financial determination rather than one of ethical consideration. It thus appears essential for the benefit and good of the public that determination be made of the constitutionality of the regulations affecting

equal protection under the law of attorneys, carrying with it a penal characteristic.

This Court has before considered acts which are not integral with the performance of official duties done under the color of office by persons occupying official positions. Liability of such persons and prejudice resulting from acts done which constitute a denial of due process of law are necessarily matters of fact to be considered upon review. The substantial and gross acts which are not integral with the performance of official duties in this case warrant review because of flagrant and arbitrary abuse under the color of office.

An issue not heretofore submitted for consideration to this Court is the abrogation of rules and informalities by which a regulatory agency abdicated the duty conferred upon it under the burden and authority imposed upon the Supreme Court of the State of Idaho by the constitution and laws of the State of Idaho to decide all matters respecting the practice of law in Idaho, and where, after the subordinate agency failed

to act, whether or not a duty was imposed upon the Supreme Court of the State of Idaho to undertake and act as a court of original jurisdiction to hear and decide the matter before it as a trial court. In this case there was an agreement between the subordinate agency and the accused attorney whereby the accused attorney denied all charges, such denial was expressly agreed not to constitute a plea of nolo contendere, the agency itself would withhold and not determine guilt or innocence, and accused attorney was to submit a brief, documents, and evidence in support of denial to the Supreme Court of the State of Idaho for consideration. Thereafter, the Supreme Court of the State of Idaho issued its first order before accused attorney could file the agreed brief and after granting an extension of time to the accused attorney within which to file the brief, documents and evidence in support of accused attorney's denial, and thereafter issued its final order without having all documents and evidence before it, as required by its rules, to be submitted by the subordinate agency; the order

purportedly being under the terms of the agreement with the subordinate agency, but materially departing therefrom and avoiding determination of the merits of the case as agreed. Thus, the issue before this Court is whether or not both an agency and a department of government, under which an agency is operating, can avoid a hearing upon the merits of a case by circumventing its own rules and refusing to obtain all evidence and record to provide determination of a case at issue. Such avoidance so affects the relationship between citizens and government that determination by this Court appears essential to establish the orderly administration of justice.

This Court has heretofore indirectly acted in response to questions of jurisdiction and authority of the federal government occupying a field of law affecting the general welfare. Included within the scope of established rules is the exclusive authority of the Commissioner of Patents to regulate practice before the United States Patent Office to the exclusion of states rights to act under police powers. The attempt

here to regulate practice before the Patent Office is indirect, wherein the Executive Secretary of the Idaho State Bar has advised, and is continuing to advise clients of accused attorney that the order of the Supreme Court of the State of Idaho denies the accused attorney the privilege of practicing before the United States Patent Office within the borders of the State, that fees are not properly due accused attorney, and that clients should seek other counsel forthwith. Patent attorneys and agents have long been beset with double intender statements affecting their respective professional abilities made by State Bar officials. It appears necessary for all persons engaged in patent practice as well as the general public to determine what constitutes interference and attempted regulation of patent attorneys and agents by state officials. The fact pattern established by this case appears to set forth a good basis upon which a rule of law may be established.

At issue in this case is whether or not there is a reasonable time limitation within which a

complainant may bring a complaint before the bar regulatory agency. Some of the events complained of occurred more than 8 years prior to the citation. It appears necessary for all members of the profession to know, if only for the retention of records, how long they shall be liable for their conduct. Hence, substantial reason for hearing this matter appears established.

CONCLUSION

For the foregoing reasons this petition for a writ of certiorari should be granted.

Respectfully submitted,

JOHN W. KRAFT
In Propria Persona

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the within PETITION FOR WRIT OF CERTIORARI has been deposited in the United States mail, by Airmail, postage prepaid, certified, return receipt requested on this ____ day of January, 1977, to the following named persons, entities, and bodies at the address shown:

Clerk of the Supreme Court
of the State of Idaho
Supreme Court Building
Boise, Idaho 83702

The Idaho State Bar
204 West State Street
Boise, Idaho 83702

Gerald W. Olson
303 Spaulding Bldg.
Box 1725
Pocatello, Idaho 83201

Mack A. Redford
815 Washington
Boise, Idaho 83702

Thomas A. Mitchell
316 Elder Bldg.
Coeur d'Alene, Idaho 83814

Louis H. Cosho
Bank of Idaho Bldg.
Boise, Idaho 83702

Dean E. Miller
1801 Ellis
Caldwell, Idaho 83605

Ronald L. Kull
204 W. State St.
Boise, Idaho 83702

David W. Cantrill
525 Main Street
Boise, Idaho 83702

Cumer L. Green
524 Main Street
Boise, Idaho 83702

JOHN W. KRAFT

IN THE SUPREME COURT OF THE STATE OF IDAHO

IN THE MATTER OF)
)
JOHN KRAFT,) ORDER
) Supreme Court No. 12182
ATTORNEY.)

This Court having heretofore entered an order under date of March 31, 1976, suspending the said John W. Kraft from the practice of law for a period of five years, and to pay costs of the disciplinary proceedings against him in the amount of $4,570.85; and

Petition for rehearing having thereafter been filed by the said John W. Kraft, and this Court, on April 16, 1976, having granted said petition, but continuing the order of suspension from practice, and

The Court thereafter having ordered further briefing on the said issues, and the Court being fully advised in the premises, and

The Court having again reviewed the offer and acceptance of the voluntary suspension of the said John W. Kraft, as agreed and entered into by John W. Kraft and the Discipline Committee of the Idaho State Bar, which reads as follows:

"BEFORE THE BOARD OF COMMISSIONERS OF THE
IDAHO STATE BAR

In the Matter of)
JOHN KRAFT,) File No. C-302
Attorney.) VOLUNTARY SUSPENSION

JOHN KRAFT, the undersigned, hereby states that a complaint has been filed against him before a disciplinary committee of the Idaho State Bar and that said complaint charges him in general with professional misconduct.

Further, John Kraft states that he is aware of said complaint and had denied the same, but that because of the difficulty of

defense, he has agreed to a voluntary suspension from the practice of law in the State of Idaho for a period of five (5) years beginning January 13, 1976.

Further, that from this date forward John Kraft will no longer engage in the general practice of law in the State of Idaho other than the wind-up of present cases; that said windup shall be completed within a period of two weeks except for certain cases which are docketed on the court calendars and which require him to represent said clients. That said cases will continue for no longer than March 31, 1976. That these cases number less than ten (10).

That the undersigned, John Kraft, shall pay for all costs of the Idaho State Bar in the prosecution of this matter. That said sums are approximately $3500.00.

That after a period of five (5) years should the undersigned reapply to the Idaho State Bar, he must show evidence of good moral character and rehabilitation. Further, he must have repaid all claims for provable loss which were incurred in this matter, including the client indemnity fund of the Idaho State Bar.

Further, the undersigned agrees that should further complain[t]s be lodged with the Idaho State Bar which are not known at this time, this suspension does not prohibit prosecution of those matters.

Further, this agreement is freely and voluntarily rendered; that there is no coercion or deception accompanying this statement and that the undersigned is fully aware of all implications and has been fully represented by counsel throughout all stages of the proceedings.

DATED this 15th day of January, 1976.

APPROVED:

/s/ David W. Cantrill
PROSECUTING COMMITTEE

/s/ John W. Kraft

/s/ R. G. Carter
Ronald G. Carter, Attorney
for JOHN KRAFT

APPROVED
/s/ Willis E. Sullivan
/s/ Claude Marcus
/s/ Don J. McClenahan
DISCIPLINE COMMITTEE"

NOW THEREFORE, IT IS ORDERED that, based on the foregoing voluntary suspension, the prior order of suspension, dated March 31, 1976, is affirmed, and the said John W. Kraft, as an attorney of this court, and his right to practice law before this court, and the courts of this state, is suspended from the practice of law for a period of five (5) years from and after March 31, 1976;

IT IS FURTHER ORDERED that John W. Kraft shall pay the costs of the disciplinary proceedings in the amount of $4,570.85;

IT IS FURTHER ORDERED that John W. Kraft, may be reinstated as an attorney of this State after the lapse of such five (5) year period upon his making satisfactory showing to be filed with the Board of Commissioners of the Idaho State Bar that he has complied with this order, and that he has paid to the Commissioners of the Idaho State Bar costs in the amount of $4,570.85, to be paid to the proper representatives of the Board of Commissioners of the Idaho State Bar, and that upon proper showing that he has paid all claims for provable loss which were incurred in this matter, and upon further satisfactory showing of good moral character and rehabilitation, in conformity with the provisions of Rule

169 of the Rules of Disciplinary Enforcement, effective September 1, 1976.

DATED this 27th day of September, 1976.

/s/ Joseph J. McFadden
Joseph J. McFadden
Chief Justice

ATTEST: /s/ R. H. Young
Clerk

I, R. H. Young, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause September 27, 1976, and now of record in my office.

WITNESS My hand and the seal of this Court, September 27, 1976.

/s/ R. H. Young
Clerk of the Supreme Court
STATE OF IDAHO

John W. Kraft
4025 Pioneer Square Station
Seattle, Wn. 98401
David W. Cantrill
Attorney at Law
Boise

SUPREME COURT
STATE OF IDAHO
Boise, Idaho

October 29, 1976

SUPREME COURT NO. 12182

GENTLEMEN: IN THE MATTER OF JOHN KRAFT

In the above entitled cause the Court has today denied Mr. Kraft's Petition for Reconsideration.

Cost awarded to _____.

/s/Judy E. Czmic
DEPUTY CLERK OF THE
SUPREME COURT

Supreme Court, U. S.
FILED
MAR 26 1977
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1976
No. 76-980

IN THE MATTER OF
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PETITION FOR REHEARING FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE STATE OF IDAHO

JOHN W. KRAFT
In Propria Persona

P.O. Box 4025
Pioneer Square Station
Seattle, WA 98104

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1976
No. 76-980

IN THE MATTER OF
JOHN W. KRAFT,
Petitioner

PETITION FOR REHEARING FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF IDAHO

TO: The Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States

JOHN W. KRAFT, petitioner herein, prays that rehearing be granted and that a writ of certiorari issue to review the judgment of the Supreme Court of the State of Idaho entered in the above entitled case on September 27, 1976.

CONCISE STATEMENT OF GROUNDS FOR REHEARING

The Supreme Court of the State of Idaho, subsequent to the filing of the petition for writ of certiorari by your petitioner, by its command, execution, and administration of its order dated September 27, 1976, has decided a federal question of substance not heretofore decided by this Honorable Court, and in a manner not in accord with applicable decisions of this Court. The Supreme Court of the State of Idaho has, by and through its prosecutor, repeatedly commanded that your petitioner respond to questions of practice before the United States Patent Office under 35USC31 by virtue of the authority

of its order dated September 27, 1976. Questions of practice before the United States Patent and Trademark Office are solely within the jurisdiction of the United States and not subject to state laws, regulations or orders. The question now submitted to this Honorable Court is the jurisdiction, scope, and authority of a state court to decide, command, execute, and administer federal laws respecting the practice before the United States and Trademark Office.

The Supreme Court of the State of Idaho has so far departed from the accepted and usual course of judicial proceedings, and so far sanctioned such departure therefrom as to call for the exercise by this Honorable Court of its power of supervision. Since filing the petition for writ of certiorari, The Supreme Court of the State of Idaho, by and through its Commissioners, has disseminated evidence and testimony and permitted its use in other civil and criminal proceedings in contravention of Rule 164 of the Supreme Court of the State of Idaho, which rule provides in part:

> "Any testimony given by the accused in a disciplinary proceeding shall be priviledged and shall not be used in any other civil or criminal proceedings against the accused."

The question now presented to this Honorable Court is whether or not the supervision of this Court may be invoked.

The Supreme Court of the State of Idaho has failed and refuses to command that all documents, records, evidence and testimony in the case be brought before it and the record is incomplete, thereby abridging Rule 167 of the Idaho Supreme Court. The Rule 152 of The Supreme Court of the State of Idaho set out in the petition for writ of certiorari denies equal protection under the law to attorneys in Idaho as provided by the constitutions of both the United States of America and the State of Idaho by granting absolute immunity to complainants of attorneys. Gross departure from accepted and usual course of judicial proceedings is further evident from the petition for writ of certiorari before submitted to the Court. Coupled with the grounds here submitted appears to require that this Court exercise it power of supervision.

Review under Title 28 United States Code Section 1252 et seq. of the incomplete record before the Supreme Court of the State of Idaho by this Honorable Court would merely frustrate the intent and reasons for judicial review. This provides further grounds for this Honorable Court to exercise its power of supervision.

The prayer here sought is not in any respect a means of seeking avoidance of charges or the consequences of judgments on procedural grounds. This petition is respectfully submitted to establish and require the proper administration of justice under fact patterns and controversies not before decided directly by this Honorable Court. The most favorable determination of procedural and substantive matters can not now restore your petitioner to his former position or station. Denial of the present petition will ignore the most flagrant abuse of power, acceed to determination of federal questions of substance not in accord with applicable decisions of this Court, and will ignore extreme and gross departures from accepted and usual courses of judicial proceedings. The present state of the case provides authority and license for further abuses of power. Your petitioner is informed and believes, and upon such information and belief alleges that certain attorneys have become so alarmed by the rules of the Supreme Court of the State of Idaho granting absolute immunity to complainants, sanctions to permit gross departures from accepted and usual judicial proceedings, and the absence of limitations of actions with respect to time that proposed legislation is being commenced and pursued to restrict and further define the scope of authority of

the Supreme Court of the State of Idaho. Thus, the questions here presented become extremely important issues affecting the fundamental foundation in the administration of justice.

Respectively submitted,

JOHN W. KRAFT
In Propria Persona

CERTIFICATE OF PETITIONER

I, JOHN W. KRAFT, petitioner herein, do by these presents certify that the within petition for rehearing is presented in good faith and not for the purpose of delay. Further, that favorable determination of the merits of the present petition does not stay, change or alter the order, command and execution of judgment now existing in anyway, and that any such order, command or judgment shall not be changed or altered except by subsequent final judgment upon the merits of this case by this Honorable Court. Your petitioner certifies that this petition is restricted to the grounds set out in this petition for rehearing of which this certificate forms a part.

JOHN W. KRAFT
In Propria Persona

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the within PETITION FOR WRIT OF CERTIORARI has been deposited in the United States mail, by Airmail, postage prepaid, certified, return receipt requested on this 25th day of March, 1977, to the following named persons, entities, and bodies at the address shown:

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